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EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/068,539

Applicant(s)

CALMEISE ET AL.

Examiner

J. Allen Shriver

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8, 9, 14, 15, 52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 42 is/are allowed.
- 6) ☒ Claim(s) 1-5, 9, 14-16, 19-23, 26, 29-38, 43-53 and 55 is/are rejected.
- 7) ☒ Claim(s) 8, 25, 27-28 and 54 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date Z
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's submittal of an amendment was received on November 20, 2003, wherein claims 1, 3-5, 8-9, 14-16, 19-23, 25-27, 29-30, 32-34, 42-47 and 50 were amended, claims 6-7, 10-13, 17-18, 24, 39-41 and new claims 51-55 were added.

### *Drawings*

2. This application lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-5, 9, 14-16, 21-23, 26, 29, 43-47, 49-52 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaVaute et al. (US Patent 6,203,036 B1) in view of Carrillo (US 2002/0056967).** LaVaute et al. discloses a manually propelled janitorial cart (100) comprising a base (See Fig. 1); four outboard wheels (120,122,124,126) attached to the base; and a trash holding compartment attached to the base and being positioned over a central portion of

Art Unit: 3618

the base, the trash holding compartment having an upper top with a trash receiving aperture therein; one outboard compartment positioned adjacent the trash holding compartment, the outboard compartment being positioned over two outboard wheels and having an open framework supporting at least one shelf (See Fig. 10); and a goods storage compartment attached to the base adjacent to the trash holding compartment, a handle (128) attached to the goods storage compartment on a side of the goods storage compartment opposite from the trash holding compartment (See Fig. 1); the base including a lower level tray extending outward away from the trash holding compartment (See Fig. 1); **[claim 2]** wherein the trash holding compartment is at least partially open sided (See Fig. 2); **[claim 3]** wherein the trash holding compartment is closed on four sides by a plurality of rigid panels (See Fig. 2); **[claim 4]** wherein the rigid panel closed trash holding compartment has a door in one side thereof (See Fig. 5); **[claim 5]** two outboard compartments positioned adjacent the trash holding compartment, each outboard compartment being positioned over two outboard wheels (See Fig. 1); **[claim 14 and 44]** a separate handle (128) attached to one of the outboard compartments, said one of the outboard compartments being between the handle and the trash holding compartment (See Fig. 1); **[claim 52]** a plurality of side supports (136,138) extending away from said one of the outboard compartments, the handle being attached to the side supports forming a gap between one of the outboard compartments and the handle (See Fig. 1).

LaVaute et al. does not disclose a pair of central wheels attached to the base, so that the trash holding compartment is positioned over an axis extending through the pair of central wheels. Carrillo discloses a cart having a pair of central wheels (28) attached to a base (See Fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in this

Art Unit: 3618

art to provide to central non-swivel wheels to the cart disclosed in LaVaute et al. in view of the teaching of Carrillo. The motivation for doing so would have been to tilt the cart to allow the opposite ends of the cart to be rotated above and thereby obviate obstacles encountered during movement of the cart (See paragraph 0027).

Regarding claim 9, Carrillo discloses wherein the central wheels have a diameter larger than the outboard wheels (See Fig. 5A).

Regarding claims 15, LaVaute et al. discloses a plurality of laterally spaced zone separation compartments attached to the base, a first zone separation compartment being a goods storage compartment, a second zone compartment being a wet zone compartment, and a third zone separation zone being a trash holding compartment, the trash holding compartment being between the goods storage compartment and the wet zone compartment (See Fig. 1); **[claim 16]** a vertically extending barrier between adjacent zone separation compartments, the barrier being a rigid panel having a height substantially the same as a height of the trash holding compartment and a width substantially the same as a width of the goods storage compartment (See Fig. 2); **[claim 29]** the trash holding compartment being fully enclosed by a plurality of rigid panels (See Fig. 1); **[claim 21]** wherein the wet zone compartment includes a water retaining curb (See Fig. 11); **[claim 23]** a handle attached to the goods storage compartment and being spaced outward from the goods storage compartment forming a gap between the goods storage compartment and the handle (See Fig. 1); **[claim 26]** wherein the trash holding compartment is closed sided by a plurality of rigid panels, the goods storage compartment has an open framework supporting at least one shelf, and the wet zone compartment has a curb attached to the base (See Figs. 1 and 11). Regarding claim 22, it would have been obvious to a person of ordinary skill in this art to

Art Unit: 3618

provide a plurality of ridges formed in the upper surface thereof of the wet zone compartment in order to channel the water into a convenient collection location.

5. **Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over LaVaute et al. (US Patent 6,203,036 B1) and Carrillo (US 2002/0056967) as applied to claim 15 above, and further in view of Wilson (US Patent 2,865,647).** LaVaute et al. and Carrillo disclose the cart as set forth above, but do not disclose a side pocket attached to the base alongside the trash holding compartment. Wilson discloses a side pocket (16) attached to the base along side the trash holding compartment. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide the cart disclosed in LaVaute et al. with a side pocket along side the trash holding compartment in view of the teaching of Wilson. The motivation for doing so would have been to allow a user to store small items, such as keys, in the side pocket when using the cart.

6. **Claims 20 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaVaute et al. (US Patent 6,203,036 B1) and Carrillo (US 2002/0056967) as applied to claims 15 and 46-47 above, and further in view of Perelli et al. (US Patent 6,497,423 B1).** LaVaute et al. and Carrillo disclose the cart as set forth above, but do not disclose a plurality of tool holders formed in a top surface of at least one of the trash holding compartment and the goods storage compartment. Perelli et al. discloses a plurality of tool holders formed in a top surface of a compartment of a janitorial cart (See Fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a plurality of tool holders in a top surface of one of the compartments in the cart disclosed in LaVaute et al. in view of the

teaching of Perelli et al. The motivation for doing so would have been to allow a user to securely attach a broom or other tool to the cart when not in use.

**7. Claims 30-31, 35-38 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaVaute et al. (US Patent 6,203,036 B1) in view of Perelli et al. (US Patent 6,497,423 B1).** LaVaute et al. discloses a manually propelled janitorial cart having a base; a plurality of wheels attached to the base; an enclosed storage compartment (146) attached to the base, the enclosed storage compartment having an upper top surface with a trash receiving through aperture therein, but does not disclose a door in one side thereof; and a separate handle attached to the base and distal from the enclosed storage compartment (See Fig. 1). Perelli et al. discloses a door (188) in one of the storage compartment. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a door in the enclosed storage compartment disclosed in LaVaute et al. in view of the teaching of Perelli et al. The motivation would have been to allow a user to open up the enclosed storage compartment from the side of the cart to retrieve an item.

Regarding claim 31, Perelli et al. discloses wherein the enclosed storage compartment includes a pivotable lid attached to the upper top surface thereof and the trash-receiving aperture being in the pivotable lid and the upper top surface.

Regarding claims 35-37, Perelli et al. discloses a trash bag retainer positioned adjacent the trash receiving aperture, wherein the trash bag retainer comprises a grip about an interior edge of the trash receiving aperture, and wherein the trash bag retainer further comprises an elastic cord stretched about the raised grip.

**8. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaVaute et al. (US Patent 6,203,036 B1) and Perelli et al. (US Patent 6,497,423 B1) as applied to claim 30 above, and further in view of Breveglieri et al. (US Patent 4,923,202).**

The combination of LaVaute et al. and Perelli et al. do not disclose at least one movable shelf with the enclosed storage compartment and a plurality of vertically spaced apart shelf supports within the enclosed storage compartment. Breveglileri et al. discloses at least one movable shelf (14) and a plurality of vertically spaced apart shelf supports (142). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide the cart disclosed in LaVaute et al. with a plurality of vertically spaced apart shelf supports and at least one movable shelf within the enclosed storage compartment in view of the teaching of Breveglieri et al. The motivation for doing so would have been to allow the shelf to be vertically adjustable in order to accommodate items of varying sizes.

Regarding claim 34, the movable storage shelf disclosed in Breveglieri et al. would be capable to supporting a trash bag positioned within the trash receiving aperture and extending into the enclosed storage compartment.

***Allowable Subject Matter***

9. Claims 8, 25, 27-28 and 54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art did not disclose wherein the wet zone compartment and a corresponding portion of the base are removably attached to a central portion



Art Unit: 3618

of the base, the remaining portion of the base forming a functional cart having four wheels attached thereto.

10. Claim 42 is allowed over the prior art. A person of ordinary skill in this art would not be motivated to have a front portion of the base disclosed in LaVaute et al. be removably attached to a central portion of the base, the removable front portion of the base forming one of the outboard compartments, the remaining portion of the base forming a functional cart having four wheels attached thereto.

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 1-5, 8, 9, 14-16, 19-23, 25-38 and 42-55 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3618

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Allen Shriver  
Examiner  
Art Unit 3618

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